

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

DAVID JOHNSON #163802,

Petitioner,

v.

Case No. 2:07-cv-23  
HON. ROBERT HOLMES BELL

LINDA M. METRISH,

Respondent.

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**REPORT AND RECOMMENDATION**

Petitioner David Johnson filed this petition for writ of habeas corpus challenging the validity of his state court convictions. In his application for habeas corpus relief, Petitioner indicated that he exhausted his state court remedies in his direct appeal. A response has been filed which addresses each of Petitioner's habeas corpus claims. It does not appear from either the habeas corpus petition or from the response that Petitioner has attempted to seek relief on unexhausted claims. Petitioner has now filed a "Motion for Abatement" which the court construes as a motion to stay pursuant to *Palmer v. Carlton*, 276 F.3d 777, 781 (6th Cir. 2002). In his motion, Petitioner claims that he has a pending motion for relief from judgment in the state circuit court and seeks to have the instant habeas corpus action stayed until the adjudication date of his motion for relief from judgment. However, because Petitioner does not appear to have raised unexhausted issues in his habeas corpus petition, such relief is unnecessary. Therefore, the undersigned recommends that this motion (docket #13) be denied.<sup>1</sup>

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<sup>1</sup>Petitioner has failed to identify any unexhausted claims which would require such action. Without such information, Petitioner's motion cannot be properly evaluated. It is Petitioner's burden to provide such information.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within ten (10) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley  
TIMOTHY P. GREELEY  
UNITED STATES MAGISTRATE JUDGE

Dated: January 9, 2008